

February 13, 2014

Via email to the following addressees:

Sally Jewell
Secretary of Interior
1849 C St., N.W.
Washington, D.C. 20240

Rod McInnis
Regional Administrator
National Marine and Fisheries Service
501 West Ocean Blvd, Suite 4200
Long Beach, CA 90802

Jared Blumenfeld
Regional IX Administrator
US Environmental Protection Agency
75 Hawthorne St.
San Francisco, CA 94105

**RE: COALITION OF ENVIRONMENTAL, ENVIRONMENTAL JUSTICE, TRIBAL
AND FISHING ORGANIZATIONS' COMMENTS IN OPPOSITION TO THE GRASSLAND
DRAINER PROPOSAL TO DISCHARGE SELENIUM AND OTHER POLLUTANTS TO
BROADVIEW WATER DISTRICT LANDS—ANOTHER KESTERSON IN THE MAKING.**

Dear Ms. Jewell, Mr. McInnis and Mr. Blumenfeld:

The undersigned respectfully submit the following comments on the proposal by the Grassland Drainers and Westlands Water District to use the Westlands owned Broadview Water District to dispose of thousands of pounds of selenium and other pollutants to these lands. We have commented extensively that land retirement and the succession of irrigation to these toxic soils is the best method of control.

For over two decades selenium discharges that exceed water quality standards have been discharged into the waters of the state and nation without adequate permits and controls spreading this toxic pollution to the San Joaquin River and the Delta Estuary and San Francisco Bay. We have commented extensively that this discharge violates the Clean Water Act and state water quality control protections. Instead of enforcement, these protective legal provisions have been waived under the mirage that a treatment method for

hundreds of thousands of gallons of pollutants could be treated and the residue hazardous wastes trucked off for disposal.

Now after decades of discharges, the Grassland Drainers propose to “dispose” these toxic pollutants on lands in the Broadview Water District now owned by Westlands Water District (Westlands). It is likely this proposal will merely create another environmental disaster such as occurred at the Kesterson National Wildlife Refuge.

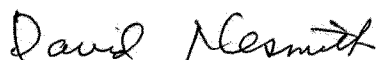
We urge the proposed reductions in monitoring be halted as indicated in our letter of November 2013 (<http://calsport.org/news/wp-content/uploads/2013/12/Coalition-Letter-on-GBP-ESA-Violations-Monitoring-Reductions-LTR.Corrected-.pdf>)

Further this “new” proposal by the Grassland Drainers should receive serious oversight before history is repeated. A full Environmental Impact Statement and Environmental Impact Review should to be required.

We adopt by reference the comments highlighted below in the following documents.

Thank you for the opportunity to comment on behalf of the thousands of our members represented by the Environmental Water Caucus. Please put us on your mailing list for any future notices regarding this project and its compliance with California Environmental Quality Act, National Environmental Policy Act, State Water Resource Control Board and Porter Cologne provisions of law and the Clean Water Act

Regards,



David Nesmith, Co-Facilitator



Nick Di Croce, Co-Facilitator

1. November 26, 2013 Coalition Comment Letter: Grasslands Bypass Project -- Violations of the Endangered Species Act and Reduced Monitoring Threaten Endangered Species and Public Health

<http://calsport.org/news/wp-content/uploads/2013/12/Coalition-Letter-on-GBP-ESA-Violations-Monitoring-Reductions-LTR.Corrected-.pdf>

2. USFWS Comments on the March 2010 Draft Staff Report Concerning the Proposed Basin Plan Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins to Address Selenium Control in the San Joaquin River Basin.

http://www.waterboards.ca.gov/water_issues/programs/tmdl/docs/sjr_selenium/comments092210/susan_moore.pdf

3. Information recently released by U.S EPA concerning the effects of selenium on the health of the San Francisco Bay-Delta estuary need to be considered by NRC's Committee on Sustainable Water and Environmental Management in the California BayDelta https://www.c-win.org/webfm_send/234

4. Selenium and the California Toxics Rule <http://www.c-win.org/selenium-and-california-toxics-rule.html>

5. Selenium Pollution Risks to Drinking Water and Wildlife Documented in Federal Reports <http://www.c-win.org/content/selenium-pollution-risks-drinking-water-and-wildlife-documented-federal-reports.html>

6. Drainage, Salt and Selenium in the San Joaquin Valley

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/docs/cmnt081712/cwin/cwinappendix_a.pdf

7. Fishing and Conservation Groups Win First Round to Curb Selenium Discharges into SF Bay Delta Estuary

"Fishing and conservation groups have won the first round in their attempt to get state and federal officials to follow water quality laws and comply with the Clean Water Act. For years West side Irrigators have been dumping their selenium pollution into the San Joaquin River and SF Bay Delta Estuary without required pollution control permits."

http://www.lloydgcarter.com/content/120903578_fishing-and-conservation-groups-win-first-round-curb-selenium-discharges-sf-bay-de

8. California's Selenium Time Bomb Keeps Ticking

"Jon Stewart ran a typically risible segment last week about a distinctly unfunny story: the discovery of a two-headed trout in an Idaho watershed, the result of selenium contamination from phosphate mining operations by the J.R. Simplot Co. The bit reprises, in a far funnier way, an earlier New York Times piece on the issue by Leslie Kaufman."

A significant subtext to this saga is the connivance of the federal agencies empowered to regulate such pollution. As Kaufman reported, the U.S. Environmental Protection Agency rolled over for Simplot, practically begging to have its belly scratched. U.S. Fish and Wildlife Service supervisors barred their lead selenium toxicologist, Joe Skorupa, from addressing Simplot's foul deeds on Stewart's show....s with the trout in Idaho, so with the waterfowl and shorebirds in Kesterson. The birds paddling and wading around the refuge looked like they were drawn by R. Crumb during a particularly vicious acid flashback. Drainwater deliveries to the refuge were subsequently halted, but irrigation hasn't stopped in the highly seleniferous soils of the western San Joaquin Valley. The drainwater is now dumped into a tributary of the San Joaquin River, where it winds its way to San Francisco Bay: hardly a great improvement.
http://www.huffingtonpost.com/glen-martin/californias-selenium-time_b_1606690.html

9. Away go our dollars down the delta drains, SF Chronicle by Richard Walker

"Farming Westlands is a bad bargain for California. The area has too little groundwater and makes too little profit to pay for irrigation water (hence the subsidies). Worse, it has a severe problem of toxic metals in the drain water. Nor are its crops vital foodstuffs, being principally almonds for snacks, flavorings and beauty products. The land should go back to grazing." <http://www.sfgate.com/opinion/article/Away-go-our-dollars-down-the-delta-drains-5132228.php>

10. Ending Selenium Pollution of the San Joaquin River and Bay-Delta

<http://www.c-win.org/blog/ending-selenium-pollution-san-joaquin-river-and-bay-delta.html>

Sierra Club California, Friends of the River, Friends of Trinity River, Pacific Coast Federation of Fisherman's Associations, Planning and Conservation League, North Coast Rivers Alliance, Southern California Watershed Alliance, other environmental groups and some of our members (Environmental Coalition) submitted extensive written and oral comments to the Central Valley Regional Water Quality Control Board for the hearing on May 27, 2010. We incorporate those comments by reference. Most of the comments were either ignored completely, or insufficient responses were given by Regional Board staff.
<http://www.pcffa.org/SWRCBSeleniumWaiverCommentLetter.pdf>

11. A Major Pollutant Goes Unregulated

Nearly three decades ago, federal scientists discovered the cause of a massive die-off of fish and birds at the Kesterson National Wildlife Refuge in Merced County, 10 miles north of Los Banos. Selenium, a trace element scattered through the soils of the western San Joaquin Valley, had been dissolved by irrigation in the Westlands Water District and then funnelled in drainage water from the fields to evaporation ponds at Kesterson through a cement-lined drainage ditch called the San Luis Drain. As the selenium moved up the Kesterson food chain, it became more lethal until it caused the deaths of thousands of migratory birds and near total reproductive failure in some avian species.

And the same story applies here in the San Joaquin Valley. The February 1985 Kesterson cleanup order also included language that the Central Valley Regional Water Board begin

addressing the problem of unregulated discharges of agricultural wastewater from federal irrigation districts north of Westlands. Those districts from Merced County north to the Delta receive their irrigation supplies from the Delta-Mendota Canal, which was completed in 1951, long before anyone uncovered the dangers of selenium in waterways (although rangeland selenium toxicity for livestock was known in the Dakotas and other states nearly a century ago). Thus, those Delta-Mendota Canal irrigation districts have been dumping their untreated Ag wastewater into the lower San Joaquin River for nearly 60 years. For the first 25 years after the Kesterson cleanup order, those districts operated under a waiver issued by the Central Valley Regional Water Board and continued to dump their toxics in the lower river. This year, the Regional Board granted those drainers yet another 10-year exemption! How is it a polluting industry killing off a river gets 35 years to continue business as usual?

The Regional Board's exemption is being appealed to the State Water Board, but given the state board's lax enforcement policies it seems likely it will merely rubber stamp the Regional Board's exemption.

Those federal irrigation districts north of Westlands surround the 50,000-acre Grasslands Water District, which is a duck hunting district and wintering ground for tens of thousands of migratory birds on the Pacific Flyway. Thus, the districts are known as the "Grasslands drainers" and funnel their selenium-tainted wastewaters through Grasslands canals and sloughs into the lower San Joaquin River in an effort to reduce selenium loading into the river. The Grassland Bypass Project also includes the use of subsurface drainage to irrigate salt-tolerant crops in areas called "re-use areas" to reduce the volume of drainwater entering the river. Approximately 4,000 acres (three times the size of the Kesterson killing ponds) of land has been planted with salt-tolerant crops and irrigated with the high selenium drainwater. Re-use areas are also a crucial part of the proposed in-valley management plan for Westlands' drainage, but on a much larger scale.

Monitoring of selenium levels in the Grasslands' re-use area is required because these lands integrate with the landscape and provide habitat for wildlife. Critics claim the trade-off here is a cleaner river for a more polluted terrestrial landscape. More than 42 studies of birds have been found to use the 4,000-acre drainage re-use area. Selenium concentrations of up to 90 micrograms per gram dry weight in two bird species-avocets and stilts-were recorded in 2006 in the Grasslands re-use area, a value representing an astounding degree of contamination that rivals the lethal selenium levels documented at Kesterson.

The re-use area monitoring is a grim reminder of the enormous volume of selenium that exists within the soils of the western San Joaquin Valley (eroded from the shale of the Coast Range mountains), both in the Grasslands and the 600,000-acre Westlands district. The disturbing selenium levels in the re-use area are a reminder that the drainage problem for western valley agriculture remains unresolved and that the selenium genie is now out of the bottle.<http://fresnoalliance.com/wordpress/?p=1403>

12. Pacific Advocates: Comments on the Advanced Notice of Proposed Rulemaking for Water Quality Issues in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Investigation into Toxins and Stressors Impacting Fish in the Bay-Delta

Using the San Joaquin River as a De-Facto Drain sends the problems and costs downstream to utilities, farmers, businesses and communities who rely on a healthy ecosystem. .. An Interim “2 Year” project to discharge selenium pollution to Mud Slough & the San Joaquin River has grown to almost 25 Years.

<http://www2.epa.gov/sites/production/files/documents/epa-r09-ow-2010-0976-0053-1.pdf>

13. Felix Smith, Biologist, who first documented the wildlife deformities at Kesterson National Wildlife Refuge commenting on enforcement waivers allowing continued discharges into the San Joaquin River, Delta Estuary and San Francisco Bay.

This agreement allows the irrigation of uplands and the continued disposal of selenium contaminated drainage in the San Luis Drain, a Central Valley Project facility. This drainage would then flow north and discharged in to Mud Slough where it will then flow to the San Joaquin River and on to the Sacramento- San Joaquin Delta. The subject analysis is focused on what is called the “zone of primary influence”. This primary zone includes Mud Slough north to the San Joaquin River and then to Crows Landing for the selenium drainage water impacts. The socioeconomic analysis includes Fresno, Madera and Merced Counties. The focus of the biological impacts and the socioeconomic analysis is too narrow. The water that becomes “Drainage” has biological and water quality impacts that occur far from the “zone of primary influence” of Fresno, Madera, and Merced Counties. Resource and socioeconomic impacts extend over hundreds of miles and impact many resources, uses and environmental values protected by the public trust.

http://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=4418

14. July 3, 2012 Brad Hubbard Bureau of Reclamation, Coalition Comments Increased Selenium Pollution Impacts to the San Joaquin River from Proposed 25 Year Water Transfers.

Re: Comments on Draft DEIS/EIR for proposed new transfer program that would provide for the transfer and/or exchange of up to 150,000 acre-feet of water from the San Joaquin River Exchange Contractors Water Authority [SJEC] to several potential users—Westlands Water District, SWP Contractors, Kern Water Bank and other users for over 25 years—2014-2038. http://www.c-win.org/webfm_send/242